

Serial No. 10/791,895

Amendment dated November 2, 2007

In Reply of Office Action dated October 26, 2007

REMARKS

The Office Action, dated October 26, 2007, has been received and its contents carefully noted.

In view of the foregoing Amendments, and following representations, reconsideration and allowance are respectfully requested.

Counsel for the Applicant wishes to express his appreciation for the courtesy of the telephone interview of October 10, 2007, with Examiner Brandon Lee Jackson.

During the telephone interview of October 10, 2007, undersigned counsel pointed out that there were typographical errors in the July 13, 2007, Office Action, and that some of the rejections over the prior art were incomplete, inconsistent, and contained inapplicable arguments, based on the new grounds of rejection. Examiner Jackson agreed to restart the date of the Office Action, and to correct all of the typographical and other inconsistencies in the Office Action, so that the prosecution history would be clear.

The present Amendment is made upon study and review of the Office Action as well as the new rejection made by the Examiner.

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The claims have been amended to more succinctly point out the structural differences of the references whether individually or in combination with regard to this invention. This invention is of importance to physicians because it eliminates the necessity of having to reach for a second item having an angular end for positioning. A physician can immediately flip the insert so that it can be positioned as desired in either the trachea or the esophagus. It reduces the amount of time previously required.

The claims point out that the insert is flippable. Please note on page 2 of the specification the penultimant paragraph which refers to the flipping to present the other end of the device thereby giving it a dual function. Furthermore the ambiguities caused by referencing the term "proximal" and the term "distal" are clarified by referring to the ends of the insert as being "first and second throat insertable end sections". On page 5 of the specification lines 6 and 7 proximal also refers to first throat insertable end and distal refers to second throat insertable end. It is to be noted that the new claims specifically recite that both the first and second ends are throat insertable which provides the dual function. Examiner Jackson has correctly stated that Sheridan

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does disclose multiple functions of the insert as noted in column 1, lines 33-42 but Sheridan does not disclose the flippable aspect of the invention nor that the ends of Sheridan's insert are capable of being inserted by flipping one end or the other end. Furthermore, the claims now clearly recite that the first throat insertable end section is angled and the second insertable end section is non-angled. Neither Sheridan nor Field whether taken individually or in combination teach the idea of having first and second throat insertable ends in which one end is angled and the other end is non-angled. The drawings of this invention clearly show this aspect in Figures 1 through 7. None of the references which have been cited in this application whether taken individually or in combination now disclose the invention as claimed. In view thereof, this application is now believed to avoid the art of record and the claims should be allowed. Claims 7, 8 and 9 have been cancelled in order to reduce the number of claims in this application.

It is believed that no fee is due for this submission. However, should that determination be incorrect, Examiner Brandon Lee Jackson is hereby authorized to charge any deficiencies to our Deposit Account No. 19-2105 and notify undersigned counsel in due course.

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Should any outstanding formal matters or other issues remain, Examiner Singh is requested to telephone B. Edward Shlesinger to resolve such.

Respectfully submitted,

Date:

November 2, 2007 Terrence L. B. Brown

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